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NIXON & VANDERHYE, PC
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ARLINGTON VA 22203

In re Application of
De Santis et al.
Application No.: 10/590,936
PCT No.: PCT/IT2005/000078
Int. Filing Date: 16 February 2005
Priority Date: 27 February 2004
Attorney Docket No.: 4865-91
For: Anti-Human Tenascin Monoclonal Antibody

DECISION

This is with regard to the "Petition To Withdraw Holding Of Abandonment..." filed on 11 August 2008.

BACKGROUND

This international application was filed on 16 February 2005, designated the United States, and claimed an earliest priority date of 27 February 2004. The International Bureau transmitted a copy of the published international application to the USPTO on 09 September 2005. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 28 August 2006 (since 27 August 2006 was a Sunday). Applicants timely filed *inter alia* the basic national fee on 28 August 2006.

On 29 May 2007, a Notification To Comply With Requirements... (Form PCT/DO/EO/922) was mailed to counsel, requiring the submission of an initial CRF of the sequence listing and a statement that the content of the CRF is identical to that of the written form and, if applicable, contains no new matter.

On 11 July 2008, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to counsel, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Form PCT/DO/EO/922 mailed on 29 May 2007.

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment, on the basis of alleged non-receipt of the Notification mailed on 29 May 2007. In a Decision mailed on 15 September 2008, the petition for withdrawal of the holding of abandonment filed on 11 August 2008 was dismissed, without prejudice, because

Concerning requirement (3), petitioner provides an explanation of the Nixon & Vanderhye docketing system. Petitioner notes that "the computer-based docket record (Exhibit A) for the subject application would have noted receipt of the May 29, 2007 correspondence and its extendible 2-month due date of July 29, 2007. However, as the enclosed screen print of the computer-based docket record for the subject application reveals, no such information was entered therein." However, petitioner has not provided a copy of a record showing all applications docketed for response on 30 July 2007 (since 29 July 2007 was a Sunday);

instead, Exhibit A appears to pertain only to this application. Petitioner is advised that such a record would be the appropriate "docket record" to satisfy requirement (3).

In response, petitioner again explains certain aspects of the Nixon & Vanderhye docketing system, and describes the entry of docketing data into both a computer-based docket record and a paper Master Docket record. It appears that the docket records submitted with the instant renewed petition are pages from that Master Docket record, dated 28, 29 and 30 July 2007. Petitioner also references "the computer-based docket record (Exhibit A) for the subject application," apparently in reference to the Exhibit A filed on 11 August 2008 and addressed in the previous Decision. However, petitioner has not furnished complete copies of the relevant pages from the computerized docket record showing all cases docketed for response on or around 29 July 2007. Such sheets would be highly probative, in corroborating the indicia appearing in the hand-written Master Docket record. Petitioner should either provide copies of said electronic record, or explicitly state (if appropriate) that counsel's system is not capable of producing such a record.

Petitioner's statement that a sequence listing was filed is acknowledged.

DECISION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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